

AMENDED IN SENATE JUNE 21, 2010

AMENDED IN SENATE JUNE 3, 2010

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

**ASSEMBLY BILL**

**No. 278**

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**Introduced by Assembly Member Monning**

February 12, 2009

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*An act to add Section 100336 to the Health and Safety Code, and to amend Sections 14012 and 14013 of the Unemployment Insurance Code, relating to public health. An act to add and repeal Division 109.6 (commencing with Section 130275) to the Health and Safety Code, relating to health information.*

LEGISLATIVE COUNSEL'S DIGEST

AB 278, as amended, Monning. ~~California Workforce Investment Board: Public Health.~~ *Health information exchange: demonstration projects.*

*Existing law establishes the Office of Health Information Integrity within the California Health and Human Services Agency to ensure the enforcement of state law mandating confidentiality of medical information and to impose administrative fines for the unauthorized use of medical information. Existing law authorizes the California Health and Human Services Agency, or one of the departments under its jurisdiction, to apply for federal funds made available through the federal American Recovery and Reinvestment Act of 2009 (ARRA) for health information technology and exchange.*

*This bill would authorize the office to establish and administer demonstration projects to evaluate potential solutions to facilitate health information exchange that promote quality of care, respect the privacy*

*and security of personal health information, and enhance the trust of the stakeholders. This bill would authorize California-based health care entities, as defined, to submit an application with the office to be approved as demonstration project participants, as defined. The bill would authorize the office to approve annually up to 4 projects as demonstration projects. The bill would require any costs associated with the support, assistance, and evaluation of approved demonstration projects to be funded exclusively by the above-described federal funds or other non-General Fund sources.*

*This bill would provide that it shall become inoperative on the date the Director of the Office of Health Information Integrity executes a declaration stating that grant period for the above-described federal funds has ended, and as of that date would be repealed.*

~~Existing law establishes the California Workforce Investment Board responsible for assisting the Governor in the development, oversight, and continuous improvement of California's workforce investment system. Existing law specifies the composition of the board to include, among others, representatives of business and of labor organizations.~~

~~This bill would require the board to additionally include representatives of philanthropic organizations that are actively engaged in providing learning, mentoring, and work opportunities to recruit, educate, and train individuals for, and retain individuals in, careers in health care and related industries.~~

~~This bill would revise the responsibilities of the board to include developing an application to the federal Health Resources and Services Administration of the Department of Health and Human Services for a federal health care workforce development planning grant.~~

~~The bill would also require the State Department of Public Health to apply to the federal Centers for Disease Control and Prevention for a grant to promote positive health behaviors and outcomes for populations in medically underserved communities through the use of community health workers, as specified in the federal Patient Protection and Affordable Care Act of 2010.~~

Vote: majority. Appropriation: no. Fiscal committee: yes.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

- 1 *SECTION 1. Division 109.6 (commencing with Section 130275)*
- 2 *is added to the Health and Safety Code, to read:*

1        *DIVISION 109.6. HEALTH INFORMATION EXCHANGE*  
2        *PRIVACY AND SECURITY DEMONSTRATION PROJECTS*

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4        *130275. The Legislature finds and declares all of the following:*  
5        *(a) There is a need to enhance California’s ability to obtain*  
6        *and use federal funding, as awarded in the State Cooperative Grant*  
7        *Agreement for health information exchange, for the establishment*  
8        *of statewide health information exchange infrastructure in*  
9        *California. The California Health and Human Services Agency is*  
10       *authorized by the Legislature, under Section 130255, to use those*  
11       *federal funds to achieve that purpose.*

12       *(b) Health information exchange has the potential to*  
13       *significantly improve the quality of treatment and care, reduce*  
14       *unnecessary health care costs, and increase administrative*  
15       *efficiencies within the health care system. The application of health*  
16       *information exchange technology to manage health information*  
17       *will also have a significant impact on consumers, health care*  
18       *facilities, and licensed health care providers.*

19       *(c) Current laws may not adequately protect privacy, or may*  
20       *impose obstacles to the exchange of vital health information, as*  
21       *required by the State Cooperative Grant Agreement for health*  
22       *information exchange and other federal health information funding*  
23       *programs.*

24       *(d) It is the intent of the Legislature to authorize the Office of*  
25       *Health Information Integrity within the California Health and*  
26       *Human Services Agency to establish and administer demonstration*  
27       *projects funded by federal grants and other sources. It is the intent*  
28       *of the Legislature that the demonstration projects do all of the*  
29       *following:*

30       *(1) Identify barriers to implementing health information*  
31       *exchanges.*

32       *(2) Test potential security and privacy policies for the safe and*  
33       *secure exchange of health information.*

34       *(3) Identify and address differences between state and federal*  
35       *laws regarding privacy of health information.*

36       *130276. For purposes of this division, the following definitions*  
37       *apply:*

38       *(a) “California-based health care entity” means a health care*  
39       *entity based primarily in California.*

1 (b) “Demonstration project” means a project approved and  
2 administered by the office in accordance with this division and the  
3 State Cooperative Grant Agreement for health information  
4 exchange or any other similar grant or grants.

5 (c) “Demonstration project participant” means a  
6 California-based health care entity that is approved by the office  
7 to participate in a demonstration project.

8 (d) “Director” means the Director of the Office of Health  
9 Information Integrity.

10 (e) “Health information exchange service participant” means  
11 a California-based health care entity that has voluntarily agreed  
12 to use the health information exchange services developed in  
13 accordance with this division.

14 (f) “Meaningful use” means the term as defined in the federal  
15 Health Information Technology for Economic and Clinical Health  
16 Act (HITECH Act) (Public Law 111-5) and the regulations  
17 promulgated thereunder.

18 (g) “Office” means the Office of Health Information Integrity.

19 (h) “State Cooperative Grant Agreement” means the grant  
20 agreement between the federal government and the state in which  
21 the federal government awarded the state with grant money  
22 pursuant to the HITECH Act in February 2010.

23 130277. The director may adopt regulations to ensure all  
24 approved health information exchange service participants and  
25 demonstration project participants follow rules, and work within  
26 parameters, that are consistent for the exchange of information.

27 130278. Before adopting regulations pursuant to Section  
28 130277, the office shall adopt the following standards:

29 (a) At least 45 days prior to adoption, the office shall post a  
30 proposed regulation on its Internet Web site. Public comment shall  
31 be accepted by the office for at least 30 days after the proposed  
32 regulation is posted. If a member of the public requests a public  
33 hearing during the 30-day review period, the hearing shall be held  
34 prior to adoption of the regulation. The process described in this  
35 subdivision shall apply to the adoption of new regulations and to  
36 changes to existing regulations.

37 (b) Adoption of, and changes to, regulations adopted pursuant  
38 to this division shall not be subject to the rulemaking requirements  
39 of Section 11343.4 and Article 5 (commencing with Section 11346)

1 *and Article 6 (commencing with Section 11349) of Chapter 3.5 of*  
2 *Part 1 of Division 3 of Title 2 of the Government Code.*

3 *(c) The director shall file any regulation adopted pursuant to*  
4 *Section 130277 with the Office of Administrative Law for filing*  
5 *with the Secretary of State and publication in the California Code*  
6 *of Regulations. Any regulation filed with the Office of*  
7 *Administrative Law pursuant to this subdivision shall include a*  
8 *citation to this section and any other applicable state or federal*  
9 *laws as providing authority for the adoption of the regulation.*

10 *(1) Any regulation adopted pursuant to Section 130277 shall*  
11 *become effective on the date it is filed with the Secretary of State*  
12 *unless the director prescribes a later date in the regulation or in*  
13 *a written instrument filed with the regulation.*

14 *(2) Any regulation adopted pursuant to Section 130277 shall*  
15 *expire the date that this division is repealed.*

16 *130279. (a) The California Health and Human Services*  
17 *Agency, through the office, may establish and administer*  
18 *demonstration projects to evaluate potential solutions to facilitate*  
19 *health information exchange that promote quality of care, respect*  
20 *the privacy and security of personal health information, and*  
21 *enhance the trust of the stakeholders.*

22 *(b) California-based health care entities may submit an*  
23 *application with the office to be approved as demonstration project*  
24 *participants. Upon receiving an application, the office shall do*  
25 *both of the following:*

26 *(1) Assist applicants in soliciting federal funds for the*  
27 *demonstration projects.*

28 *(2) Work with applicants to define the scope of the*  
29 *demonstration project.*

30 *(c) The director may approve demonstration projects to test for,*  
31 *but not limited to, any of the following areas:*

32 *(1) Patient consent and informing policies and practices.*

33 *(2) New technologies and applications that enable the*  
34 *transmission of protected health information, while increasing*  
35 *privacy protections by ensuring only required health data is*  
36 *transmitted for purposes and uses consistent with state and federal*  
37 *law.*

38 *(3) Implementation issues encountered by small solo health*  
39 *care providers as a result of higher privacy and security*  
40 *requirements.*

1     (d) *The selection of demonstration projects shall be based on,*  
2 *but not limited to, the following criteria:*

3     (1) *Areas critical to building consumer trust and confidence in*  
4 *the health information exchange system.*

5     (2) *Projects that help support the exchange of information*  
6 *critical to meeting the federal meaningful use provisions.*

7     (3) *Areas recommended by the California health information*  
8 *exchange consumer and industry stakeholder advisory process.*

9     (e) *The office shall engage with health care stakeholders to*  
10 *evaluate issues identified by the demonstration projects, comment*  
11 *upon proposed regulations, and discuss solutions for health*  
12 *information exchange.*

13     (f) *The office may annually approve up to four projects, as*  
14 *demonstration projects.*

15     (g) *The office shall work collaboratively with approved*  
16 *demonstration project participants to identify a set of common*  
17 *data elements that will be used to collect, analyze, and measure*  
18 *performance.*

19     (h) *The office shall receive reports from the demonstration*  
20 *project participants on the outcome of the demonstration projects*  
21 *no later than 60 business days after the end of the demonstration*  
22 *project.*

23     130280. (a) *The office shall review the results of a*  
24 *demonstration project and report those results to the Legislature*  
25 *no later than six months after the end of a demonstration project.*

26     (b) *The demonstration projects carried out utilizing federal*  
27 *grant funds may be subject to federal auditing provisions.*

28     130281. *Any costs associated with the support, assistance, and*  
29 *evaluation of approved demonstration projects shall be funded*  
30 *exclusively by federal funds or other non-General Fund sources.*

31     130282. *This division shall become inoperative on the date the*  
32 *director executes a declaration stating that grant period for the*  
33 *State Cooperative Grant Agreement for health information*  
34 *exchange has ended, and as of that date is repealed.*

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**All matter omitted in this version of the bill  
appears in the bill as amended in the  
Senate, June 3, 2010. (JR11)**

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